

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

JOHN GIDDIENS,
on behalf of himself and all others
similarly situated,

Plaintiff,

v.

LEXISNEXIS RISK SOLUTIONS, INC.,

Defendants.

Case No. 2:12-cv-02624-LDD

ANSWER TO PURPORTED CLASS ACTION COMPLAINT

I. PRELIMINARY STATEMENT

1. LexisNexis admits that plaintiff purports to bring this motion as a class action for alleged violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 168, *et seq.* and otherwise denies the allegations of this paragraph of the Complaint.

II. JURISDICTION AND VENUE

2. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

3. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

III. PARTIES

4. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

5. LexisNexis admits that its affiliate, LexisNexis Screening Solutions Inc. (“LNSSI”) prepares and sells various reports at the request of prospective employers, and that in the two years prior to the filing of this action, LNSSI has operated in that capacity as a consumer reporting agency within the meaning of the FCRA. LexisNexis also admits that it regularly does business in this state and that it has a principal place of business as noted. Except as expressly admitted, LexisNexis denies the allegations of this paragraph of the Complaint.

IV. FACTUAL ALLEGATIONS

A. Defendant’s Practices As A Consumer Reporting Agency And Furnisher Of Consumer Reports For Employment Purposes

6. LexisNexis admits that in the two years prior to this action the entity that provided the relevant employment report in this action operated in that capacity as a consumer reporting agency within the meaning of the FCRA, and except as expressly admitted otherwise denies the allegations of this paragraph of the Complaint.

7. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

8. LexisNexis denies the allegations in this paragraph of the Complaint.

9. LexisNexis admits that the entity that provided the relevant employment report in this action prepares and sells consumer files at the request of prospective employers and otherwise denies the remaining allegations in this paragraph of the Complaint.

10. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

11. LexisNexis denies the allegations in this paragraph of the Complaint.

12. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

13. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

14. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

15. LexisNexis denies the allegations in this paragraph of the Complaint.

16. LexisNexis denies the allegations in this paragraph of the Complaint.

17. LexisNexis denies the allegations in this paragraph of the Complaint.

B. The Experience Of The Representative Plaintiff

18. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

19. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

20. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

21. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

22. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

23. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

24. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

25. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

26. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

27. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

28. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

29. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

30. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them. (The next paragraph of the Complaint is mis-numbered paragraph 27, and this Answer follows the Complaint's numbering.)

27. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

28. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

29. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

30. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

31. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

32. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

33. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

34. LexisNexis denies the allegations in this paragraph of the Complaint.

35. LexisNexis lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

36. LexisNexis admits that the referenced report refers to the “Court of Common Please” as the source of the expunged case, denies that the background report was “Defendant’s,” and otherwise lacks sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph of the Complaint and on that basis denies them.

37. LexisNexis denies the allegations in this paragraph of the Complaint.

38. LexisNexis admits that counsel for Mr. Giddiens sent a letter to “LexisNexis Consumer Print Center” that purported to constitute a dispute of a consumer report, and otherwise denies the remaining allegations of this paragraph of the Complaint.

39. LexisNexis denies the allegations in this paragraph of the Complaint.

40. LexisNexis denies the allegations in this paragraph of the Complaint.

41. LexisNexis denies the allegations in this paragraph of the Complaint.

42. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

43. LexisNexis denies the allegations in this paragraph of the Complaint.

V. CLASS ACTION ALLEGATIONS

44. LexisNexis admits that plaintiff purports to seek to represent a class of individuals of the stated description, states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

45. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

46. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

47. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

48. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

49. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

50. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

VI. CAUSES OF ACTION

COUNT ONE – FCRA § 1681e(b)

51. In response to this paragraph, LexisNexis realleges and incorporates by reference each preceding paragraph of this answer as if fully set forth herein.

52. LexisNexis denies the allegations in this paragraph of the Complaint.

COUNT TWO – FCRA § 1681i

53. In response to this paragraph, LexisNexis realleges and incorporates by reference each preceding paragraph of this answer as if fully set forth herein.

54. LexisNexis denies the allegations in this paragraph of the Complaint.

COUNT THREE-FCRA §1681k

55. LexisNexis denies the allegations in this paragraph of the Complaint.

VII. JURY TRIAL DEMAND

56. LexisNexis states that no response to the allegations of this paragraph is necessary as they consist solely of legal conclusions, and otherwise denies the allegations of this paragraph of the Complaint.

Without admitting any of the allegations of the Complaint and without admitting or acknowledging that LexisNexis bears any burden of proof as to any of them, LexisNexis asserts the following affirmative defenses. LexisNexis intends to rely upon any additional defenses that

become available or apparent during pretrial proceedings and discovery in this action and reserves the right to amend this answer to assert such further defenses.

FIRST AFFIRMATIVE DEFENSE

1. The First Amended Complaint fails to state any claim upon which relief can be granted against either of the named LexisNexis Defendants, including in that the First Amended Complaint has included as a defendant a non-existent entity and entities that are unrelated to the conduct as alleged in the First Amended Complaint.

SECOND AFFIRMATIVE DEFENSE

2. The First Amended Complaint fails to the extent Plaintiffs' claims are barred because LexisNexis is immune under the Communications Decency Act, 47 U.S.C. § 230 *et seq.*, or Plaintiffs' claims are otherwise preempted.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiffs failed to take reasonable steps to protect themselves from the damage, if any, alleged in the First Amended Complaint and failed to mitigate any such alleged damage.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiffs' alleged damages, if any, are speculative or uncertain and therefore not compensable.

REQUEST FOR RELIEF

WHEREFORE, LexisNexis requests relief as follows:

- a. That Plaintiffs take nothing by reason of their Complaint; and
- b. That judgment be rendered in favor of LexisNexis;

c. That LexisNexis be awarded its costs of suit and attorney's fees incurred in defense of this action; and

d. For such further relief as the Court deems appropriate.

Dated: July 30, 2012

Respectfully submitted,

HANGLEY ARONCHICK SEGAL PUDLIN &
SCHILLER, P.C.

By: /s/ Sharon F. McKee
Mark A. Aronchick (I.D. No. 20261)
maronchick@hangle.com
Sharon F. McKee (I.D. No. 81499)
smckee@hangle.com
One Logan Square, 27th Floor
Philadelphia, Pennsylvania 19103
Telephone: (215) 568-6200
Facsimile: (215) 568-0300

James McCabe (CA Bar No. 104686)
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482
Telephone: 415.268.7000
Facsimile: 415.268.7522

Michael B. Miller (NY Bar No. 2449585)
MORRISON & FOERSTER LLP
1290 Avenue of the Americas
New York, NY 10104-0050
Telephone: 212.468.8000
Facsimile: 212.468.7900

Attorneys for Defendant
LEXISNEXIS RISK SOLUTIONS, INC.

CERTIFICATE OF SERVICE

I certify that on the 30th day of July, 2012, I electronically filed the foregoing Answer to Purported Class Action Complaint on behalf of LexisNexis Risk Solutions, Inc. with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to CM/ECF participants:

James A. Francis, Esquire
David A. Searles, Esquire
Erin A. Novak, Esquire
FRANCIS & MAILMAN, P.C.
Land Title Building, 19th Floor
100 South Broad Street
Philadelphia, PA 19110

Sharon M. Dietrich, Esquire
Brendan Lynch, Esquire
COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street
Philadelphia, PA 19102

Attorneys for Plaintiff and the Class

/s/ Sharon F. McKee
Sharon F. McKee